determination of the question, and could not be avoided by bringing a new suit about the same thing. Although not exactly in point, the principles in the following cases sustain this decision: *Lemeunier* v. *McClearley,* 41 La. Ann. 411; *Appollinaris Co., Ltd.,* v. *Venable et al.,* 18 N. Y. Supp. 535; *Harter* v. *Westcott,* 32 N. Y. Supp. 111. If the circuit court had granted the writ, it must have considered practically the same question decided by the dissolution of the temporary injunction. It was proper to grant the prohibition in the principal case or there would have been no end to the litigation.

SALES—REMEDIES OF SELLER—STOPPAGE IN TRANSITU—BANKRUPTCY OF BUYER.—A bankrupt company ordered goods from the petitioner, which goods arrived but were not received. While the goods were in storage in the possession of the carrier, the adjudication in bankruptcy was made and a receiver appointed. He took no action until after the petitioner had served notice of stoppage in transitu on the carrier. *Held,* no delivery having been made, such notice was in time, and title did not pass to the receiver. *In re Darlington Co.* (1908), — D. C., E. D., N. Y., —, 163 Fed. 385.

The principle of the bankruptcy statute, U. S. Comp. St. 1901, p. 3418, as stated in *Mueller* v. *Nugent,* 184 U. S., at p. 14, is that the filing of a petition and the appointment of a receiver is notice to the world and creates an inchoate title which cannot be disregarded by those who have in their possession any part of the bankrupt estate. But the question raised in the principal case is whether the title of the receiver attaches unless he acts and affirmatively exercises the authority given him by the court. No cases exactly in point are cited and none have been found. When a vendee has never paid for goods and is insolvent the vendor's right of stoppage in transitu is one highly favored on account of its intrinsic justice. *Cabeen* v. *Campbell,* 30 Pa. St. 254. Goods in a carrier's freight house, upon which the consignee has taken no action, are still in the carrier's possession and subject to the exercise of the right of stoppage in transitu. *Powell* v. *McKechnie,* 3 Dak. 319. This rule is supported by numerous cases. The court in the principal case cites the case of *In re Burke & Co.,* 140 Fed. 971, to show that the right of stoppage in transitu has been recognized as against a receiver in bankruptcy. In that case, however, no mention was made of any bankruptcy acts, and the question as to an affirmative act by a receiver, which is the point in the principal case, was not raised. The court in the principal case admits that "the theory of the present bankruptcy law would seem to be utterly hostile to the idea of returning to a creditor goods as to which title, but not actual possession, had passed to the bankrupt." The court, however, refuses to carry out this theory, basing its refusal on the ground that at the time of the passage of the bankruptcy acts the doctrine of stoppage in transitu was so recognized by the courts and in the general body of the law that it had become a legal right and was not wiped out unless there was express evidence of that intent in the text of the law.